

1 UNITED STATES OF AMERICA  
2 ASSASSINATION RECORDS REVIEW BOARD

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4 GUIDANCE ON INTERPRETING AND IMPLEMENTING THE  
5 PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS  
6 COLLECTION ACT OF 1992

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8  
9 Assassination Records Review Board

10 600 E Street, N.W.

11 Room 208

12 Washington, D.C.

13  
14 Wednesday, May 3, 1995

15  
16 The above-entitled proceedings commenced, pursuant  
17 to notice, at 1:10 p.m.  
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## P R O C E E D I N G S

[1:10 p.m.]

CHAIRMAN TUNHEIM: I'll call to order this public meeting of the Assassination Records Review Board. Welcome everyone who is here in attendance today. The primary purpose of today's meeting is to consider final action in adoption of the interpretive rules governing the Board's guidance on the definition of an assassination record.

We'll get right into that issue by asking the Board's general counsel, Sheryl Walter, who has administered this process, to give the Board an overview of the processes we've gone forward thus far, and to be ready to answer questions from the Board before we move the adoption. Sheryl?

MS. WALTER: Thank you, Mr. Chairman, and members of the Board. What I would like to do right now is to give you some background on the process of the finalization of the interpretive regulations and to discuss some of the changes that have been made to the proposed regulations that were published in the Federal Register.

In establishing a process for public disclosure of all records relating to the assassination of President John F. Kennedy, Congress created this Review Board and empowered it to decide whether a record constitutes an assassination record. In the Senate report to the President John F.

1 Kennedy Assassination Records Collection Act, which of  
2 course created this Board, Congress also indicated its  
3 intent that the Review Board issue guidance to assist in  
4 articulating the scope or universe of assassination records.

5 The interpretive regulation discussion draft that  
6 you have before you, and which has been distributed to the  
7 members of the public who are attending this meeting, will  
8 be the focus of what I'm going to talk about right now. The  
9 proposed version was published at Volume 60 of the Federal  
10 Register, page 7506, on February 8th, 1995, and was  
11 published to comply with Congress's mandate.

12 As a supplementary information that accompanied  
13 the proposed interpretive regulations stated, the principle  
14 underlying these interpretive regulations is to implement  
15 congressional intent that the JFK collection contain the  
16 most comprehensive disclosure of records relating to the  
17 assassination of President Kennedy.

18 Congress instructed that the Board apply a broad  
19 and encompassing working definition of assassination record  
20 in order to achieve the goal of assembling the fullest  
21 historical record on this tragic event in American history,  
22 and into the investigations that were undertaken in the  
23 assassination's aftermath.

24 Many agencies have already begun to organize and  
25 review records responsive to the act, even before the Board

1 was appointed and began its work. Nevertheless, the aim of  
2 the interpretive regulations is that they will aid in the  
3 ultimate assembly and public disclosure of the fullest  
4 possible historical record on the tragedy and on the  
5 subsequent investigations and inquiries into it.

6           These final regulations that you are to vote on  
7 today are also intended to aid in the consistent, effective,  
8 and efficient implementation of the act, and to establish  
9 procedures for including assassination records in the  
10 President John F. Kennedy Assassination Records Collection,  
11 which is housed, as you know, at College Park, Maryland in  
12 the National Archives facility there.

13           This Board sought public comment on its proposed  
14 interpretive regulations and set a 30-day period which ended  
15 on March 10th, 1995, for the purpose of receiving written  
16 comments. The Review Board also heard testimony at public  
17 hearings on aspects of the proposed regulations.

18           In addition, this Review Board sent copies of the  
19 proposed interpretive regulations to agencies known to have  
20 an interest in and be affected by this Board's work,  
21 particularly those who hold or created assassination  
22 records, and to the appropriate oversight committees in  
23 Congress, as well as to OMB.

24           The Review Board also sent notice of the proposed  
25 regulations and a request for comments, or sent copies of

1 the Federal Register notice itself to many organizations and  
2 individuals who have demonstrated an interest in the release  
3 of materials under the Act, or who have engaged in research  
4 into the assassination.

5 The Review Board received written comments on the  
6 proposed interpretive regulations from numerous federal  
7 agencies, state and local government entities, and  
8 individuals. Some of the federal agencies providing written  
9 comments included the Federal Bureau of Investigation,  
10 Central Intelligence Agency, the National Archives and the  
11 Department of State.

12 State and local government entities providing  
13 written comments included the Dallas, Texas county  
14 commissioner's court, the Dallas County Historical  
15 Foundation, and the city of Dallas records management  
16 division of the office of the city secretary. Altogether,  
17 approximately 30 sets of written comments were received.

18 Prior to publication of the proposed interpretive  
19 regulations, the Review Board heard testimony at a public  
20 hearing held in this building on December 14, 1994, from  
21 representatives of the National Archives on the question of  
22 including artifacts in the scope of the term assassination  
23 record.

24 After publication of the proposed interpretive  
25 regulations and before expiration of the comment period,

1 Review Board heard testimony at a public hearing on March  
2 7th, 1995. It was held in the auditorium of the main  
3 building of the National Archives.

4 Testimony was heard from the FBI and from several  
5 individuals and representatives of private organizations on  
6 their views regarding the text of the proposed regulations.  
7 Copies of all written comments that were received and  
8 transcripts of the public testimony on the proposed  
9 regulations were placed in the Board's public reading room  
10 at the Review Board's offices here at this building, and  
11 made available for inspection and copying by the public upon  
12 request.

13 The Board should also be aware that copies of  
14 comments and transcripts that were requested were all  
15 provided to the public at no charge to the public.

16 The comments received were very thoughtful and in  
17 many cases very detailed. Nearly all the comments expressed  
18 support for what was characterized as the proposed  
19 regulations' comprehensiveness and flexibility. All  
20 comments that were received were carefully studied and  
21 considered. Submitters made both technical and substantive  
22 suggestions and as I will shortly describe, many of these  
23 suggestions were incorporated in the discussion draft of the  
24 interpretive regulations now before you.

25 Some comments did express concern at the broad

1 scope of the Review Board's proposed regulations. A few  
2 comments also questioned the inclusion of records not in the  
3 possession of federal agencies, especially in the scope of  
4 the terms "assassination record" and additional records and  
5 information.

6 However, the broad scope of the Act directs the  
7 Review Board to identify and make available to the public  
8 all documents that will enhance, enrich, and broaden the  
9 historical record of the assassination.

10 The interpretive regulations thus seek to have  
11 fulfilled Congress' intent and emphasis that the search and  
12 disclosure of records under this Act must go beyond the  
13 records of previous commissions and committees established  
14 to investigate the assassination.

15 The Review Board may, as provided in Section  
16 1400.6 of these interpretive regulations, exercise  
17 discretion in the acceptance of copies where appropriate in  
18 lieu of originals of records for inclusion in the  
19 collection. This flexibility addresses concerns that some  
20 commenters expressed about the removal of original records  
21 already housed, for example, in the archives of state and  
22 local institutions.

23 In addition, many comments from individual  
24 researchers requested enumeration of specific records or  
25 record groups in several sections of the interpretive

1 regulations, especially those sections that deal with the  
2 scope of the terms "assassination records" and "additional  
3 records and information."

4 Many helpful suggestions in this regard have been  
5 provided to the Review Board already, identifying particular  
6 record groups for review and inclusion in the collection.  
7 It is hoped that there will be continued correspondence from  
8 researchers and the general public in this regard.

9 However, to ensure that the final interpretive  
10 regulations are interpreted broadly and to avoid duplication  
11 or potentially too narrow interpretation or implementation  
12 of these regulations, individual records or record groups  
13 were not enumerated further in this discussion draft of the  
14 regulations.

15 To ensure that the public is aware of the Review  
16 Board's knowledge of and pursuit of specific records and  
17 record groups, such as those that were identified in the  
18 public comments received on the proposed interpretive  
19 regulations, and in other correspondence with or testimony  
20 before the Review Board, Section 1400.8 has been revised to  
21 create a notice of assassination record designations.

22 With this mechanism, to notify the public of  
23 records it has designated as assassination records to be  
24 included in the collection, it should be unnecessary and  
25 would be duplicative to include in the final regulations a

1 more detailed enumeration of those specific records or  
2 record groups.

3 I'd like to move on briefly to describe changes  
4 that were made to each of the sections, starting with  
5 Section 1400.1, now titled "Scope of Assassination Record."  
6 The Review Board received many comments on the text of this  
7 section. Some were technical in nature and some were more  
8 substantive. The final regulations incorporate the  
9 suggested technical changes, including, as you can see,  
10 revision of the section's title to make it more precise, as  
11 well as the addition of other clarifying edits.

12 Many comments focused on the wording of  
13 subparagraph (a) as it was original proposed. Of particular  
14 concern to many commenters was the portion of this  
15 subparagraph that provides that an assassination record  
16 includes records that, as it was originally drafted, may  
17 have led to the assassination. Comments from both  
18 government agencies and individuals suggested alternative  
19 language, some because they read the proposed regulation's  
20 scope as too narrow, and others because they construed it as  
21 being too broad.

22 There was a consensus, however, that inserting a  
23 phrase similar to "reasonably related to" would be an  
24 acceptable and appropriate alternative to the "may have led  
25 to" construction that originally appeared. Therefore, this

1 change was made.

2 Again, many comments suggested in terms of this  
3 particular section that specific individuals, events, or  
4 groups of records be added and enumerated in particularity.  
5 However, as I just discussed, it was determined that  
6 including these records or record groups at this level of  
7 specificity in these interpretive regulations, which are  
8 intended to provide general guidance on the scope of the Act  
9 and of its key terms, could potentially limit the scope of  
10 the regulations as applied and might prove confusing and  
11 would be duplicative.

12 However, again, such suggestions are to be taken  
13 into account from the public and they'll be followed up on  
14 an ongoing basis.

15 Sections 1400.2, now titled "Scope of additional  
16 records and information." Again, this title was revised to  
17 conform both to the new title of 1400.1 and to be more  
18 specific. There were also additional editing changes made  
19 for clarity.

20 A new sub-part 6 was added to subparagraph (e),  
21 and a new subparagraph (f) was added after consideration of  
22 comments that noted the potential exclusion of certain  
23 categories in the scope of this section in the proposed  
24 regulations.

25 This section is intended to be used to obtain

1 access to a wide variety of materials, classified and  
2 unclassified, which may not fall into the definition of  
3 assassination record, but which will lead to the  
4 identification of assassination records. Some commenters  
5 expressed concern as to the broader scope of this section.  
6 Language was added to clarify that the purpose of this  
7 section is to identify, evaluate, or interpret assassination  
8 records, including assassination records that may not  
9 initially have been identified by an agency.

10 Language was also added to indicate that an intent  
11 to implement this section through requests in writing will  
12 be made. These written requests will be signed by the  
13 Review Board's executive director.

14 In implementing this section, the Review Board  
15 staff will work closely with entities to whom such requests  
16 are addressed to promote the Act's effective and efficient  
17 implementation.

18 Moving on to Section 1400.3, "Sources of  
19 assassination records and additional records and  
20 information." A new subparagraph, which is now subparagraph  
21 (g), was added after consideration of comments noting the  
22 potential exclusion of records created by individuals or  
23 corporations or obtained from sources other than those  
24 already identified in the previous subparagraphs.

25 Other comments suggesting the inclusion of

1 additional specific sources were considered but not included  
2 in the final version because they were determined to  
3 replicate language already in existing subparagraphs.

4 The Section 1400.4, "Types of materials included  
5 in the scope of assassination record and additional records  
6 and information." The National Archives and Records  
7 Administration provided oral testimony and written comments  
8 objecting to the inclusion of artifacts in this section.  
9 Other comments received strongly supported inclusion of this  
10 type of material within the scope of assassination record.

11 NARA's comments, as contained in its written  
12 submission and as presented in oral testimony by NARA  
13 representatives at a public hearing of the Review Board on  
14 December 14th, 1994, were carefully considered. However,  
15 this section of the interpretive regulations was retained  
16 without any change.

17 Review Board I think believes that the unique  
18 nature of issues of public trust and credibility of  
19 government processes that prompted enactment of the Act  
20 require that artifacts be included in the scope of items to  
21 be included in the collection.

22 Included in the proposed regulations retained in  
23 Section 1400.7 is language intended to address NARA's  
24 concerns about potential copying requirements related to  
25 artifacts and to presentation issues. NARA's comments on

1 the proposed regulations noted its approval of the inclusion  
2 of that language.

3 In Section 1400.5, the requirement that  
4 assassination records be released in their entirety. This  
5 section is intended to provide guidance to agencies if they  
6 are to produce for the Review Board's review records in  
7 their entirety and except in rare instances and with the  
8 assent of the Review Board, withhold information and  
9 documents only under the proposed provisions of Section 6 of  
10 the Act.

11 The purpose of requiring that records be produced  
12 in their entirety is to ensure that the context and  
13 integrity of the records be preserved and to clarify that  
14 the Review Board has the sole discretion to determine what  
15 records or portion thereof are or are not assassination  
16 records.

17 Some federal agencies expressed concern about the  
18 scope of this provision and those concerns were taken into  
19 consideration. There may be records responsive to  
20 provisions of the Act that are many hundreds of pages long,  
21 or contain only a small amount of information related to the  
22 assassination. In such cases, if an agency reasonably  
23 believes that review of the entire record for postponement  
24 and determinations would not further the disclosure purposes  
25 of the Act, the agency may request the Review Board allow

1 the agency to process under the Act only the portion that  
2 relates to the Act, including materials sufficient to  
3 provide context for the postponed portion.

4 However, in such cases the Review Board will  
5 retain sole discretion to determine whether review for  
6 inclusion in the collection of a portion of the record will  
7 fulfill the purposes of the Act or whether the entire record  
8 must be processed under the postponement provisions of the  
9 Act.

10 In Section 1400.6, the regulations address the  
11 issue of originals and copies. Many comments were received  
12 on this section requesting that portions be clarified and  
13 extensive changes were made to this section in response to  
14 these comments. Revisions were also made for purposes of  
15 internal consistency.

16 The intent in this section is to express a strong  
17 preference for including original materials and original  
18 records in the JFK assassination records collection, but  
19 also an understanding that for a variety of reasons there  
20 may be situations where a copy instead of the original of an  
21 assassination record may be more appropriate for inclusion  
22 in the collection.

23 Incorporated in this version is language that is  
24 responsive to comments made particularly by the National  
25 Archives, requesting clarification that record copies of

1 federal agency records may be included in the collection.

2 In response to other comments from the National  
3 Archives, revisions were also made to take into  
4 consideration the important issue of preservation,  
5 especially given that many of the records at issue are over  
6 three decades old. In this respect, the regulations treat  
7 records in various media in a means appropriate to the  
8 unique characteristics of that medium.

9 In Section 1400.7, which provides additional  
10 guidance, the Review Board received a variety of comments on  
11 this section, which is intended, as I said, to provide  
12 additional guidance for implementation of the Act. All of  
13 the comments on this section were carefully considered and,  
14 except where the comments appear to duplicate what was  
15 covered in this section already or was addressed elsewhere,  
16 the section was revised to reflect many of the suggested  
17 changes and to add clarity.

18 For example, subparagraph (d) as it appeared in  
19 the proposed regulations, has been broken into three  
20 subparagraphs, new subparagraph (d), (e) and (f), to  
21 eliminate potential confusion and add clarity. The intent  
22 of these subparagraphs is to make clear that all files in an  
23 individual event or activity are to be made available to the  
24 Review Board, regardless of the labels on the files where  
25 they may be found, or whether the records reflect the

1 individual events or activity's true name or identifier.

2 As I stated earlier regarding Section 1400.4,  
3 subparagraphs (b) and (c) of 1400.7 were included in the  
4 proposed regulations and retained here in order to address  
5 concerns expressed by the National Archives regarding the  
6 inclusion of artifacts and the scope of materials deemed  
7 assassination records.

8 These subparagraphs are intended to make it clear  
9 that the Act establishes unique standards as to the records  
10 to be included in the collection. By including artifacts as  
11 a type of assassination record, the Review Board seeks to  
12 fulfill its mandate from Congress to assemble all materials  
13 reasonably related to the assassination in the collection.

14 It is not intended that the inclusion of artifacts  
15 here for purposes of implementing the Act should be  
16 construed to affect the implementation of other records  
17 collections. Subparagraph (c) is intended to insure that  
18 all artifacts in the collection are preserved for posterity  
19 and that public access be provided to those artifacts in a  
20 manner consistent with their preservation.

21 In this regard, the National Archives should be  
22 encouraged to set out in writing the terms and conditions  
23 under which access to such material may be allowed.

24 Finally, as to Section 1400.8, now called "Notice  
25 of Assassination records determination." The comments

1 received on this section as it appeared in the proposed  
2 interpretive regulations indicated a great deal of confusion  
3 as to the intent and operation of the mechanism that is  
4 established in this section. For this reason, the original  
5 term "catalog of assassination records," which appeared in  
6 the proposed regulations, was replaced and this section  
7 substantially redrafted.

8 In the discussion draft version, the term "notice  
9 of assassination record determination" was substituted for  
10 prior references to a catalog. This mechanism is not  
11 intended as a mechanism to list all assassination records.  
12 The records identified by federal agencies in the review of  
13 their own records will not, for example, be listed.

14 Nor is it intended to replace the database and  
15 finding aids that have been compiled by agencies at NARA's  
16 direction, as required by Congress. Rather, this notice of  
17 assassination record determination is intended to document  
18 the Review Board's ongoing determinations, that in addition  
19 to records explicitly enumerated in the Act as assassination  
20 records, or identified by federal agencies in the searches  
21 they undertook in the future pursuant to the Act, certain  
22 other records are also assassination records and are to be  
23 included in the collection.

24 This is a summary of the changes that were made to  
25 the proposed interpretive regulations that were published in

1 February and I'd be happy to answer any questions you may  
2 have.

3 CHAIRMAN TUNHEIM: Thank you, Ms. Walter, and  
4 thank for all the staff that worked so hard on these  
5 regulations.

6 Questions that Board members have for Sheryl. Go  
7 ahead.

8 MR. JOYCE: Ms. Walter, for the final section that  
9 was headed, you correctly observed that this section is  
10 added to help in the enumeration of assassination records  
11 and those identified in searches undertaken by other  
12 investigations, certain other records are also assassination  
13 records and ought to be included.

14 Could you give us a little bit more information  
15 about what certain other records might be entailed and what  
16 led to that formulation?

17 MS. WALTER: In 1400.8?

18 MR. JOYCE: Right.

19 MS. WALTER: The mechanism is intended to provide  
20 public notice of the vast variety of records that may be out  
21 in the public domain in various capacities, as well as to  
22 identify records in agencies that may not have been  
23 identified by an agency as an assassination record and this  
24 will be an ongoing process with the staff and with the  
25 agencies. But it will also include records that may be in

1 private hands as well.

2 MR. JOYCE: So this is a mechanism by which we can  
3 identify records in private hands?

4 MS. WALTER: Exactly.

5 MS. NELSON: I wonder if for the purpose of  
6 clarification you'd go back over why the term "record  
7 copies" was inserted and I think the original documents, and  
8 now it's record copies.

9 MS. WALTER: Certainly. The comments that were  
10 received by the National Archives on this score brought the  
11 point that was not really addressed in the proposed  
12 interpretive regulations and that is that it's often a  
13 practice in many federal agencies that a copy of an original  
14 document is included and used in agency files as the record  
15 copy, as the copy that the agency treats as its --

16 MS. NELSON: That's the federal record.

17 MS. WALTER: That that's the federal record,  
18 exactly. And in some cases it may be that the original no  
19 longer exists. There is, of course, in Section 1400.6 a  
20 strong preference for originals, but especially when you're  
21 talking about documents that are over 30 years old, it may  
22 be difficult or impossible to find that original.

23 Especially in cases where that copy is treated and  
24 has been treated by the agency as the record copy that it  
25 used to do business, it seemed to make sense and the

1 National Archives point seemed very logical and sensible,  
2 that that also be something that could be included in the  
3 collection.

4 CHAIRMAN TUNHEIM: Further questions? Go ahead.

5 MR. JOYCE: One clarification. In terms of  
6 records in electronic or other formats that may have to be  
7 retransferred because of the passage of time, the  
8 obsolescence of operating software and equipment and things  
9 of that nature, would that also apply to record copy or  
10 would that change its designation altogether?

11 MS. WALTER: That provision is specifically  
12 included because of the, as you've noted, the uniqueness of  
13 a particular medium, especially in the electronic medium.  
14 And if a particular disk, for example, say in WordPerfect  
15 format, which may go out of existence, who knows, was the  
16 record copy, it could be reformatted into some medium that  
17 would be useful and is the type of medium that is used by  
18 the National Archives in the future.

19 MR. JOYCE: So it need not be a copy in the way in  
20 which we normally think of one? That is to say, a  
21 photographic or a photocopy, but rather could be something  
22 entirely reformatted?

23 MS. WALTER: If appropriate to the medium. For  
24 example, to use a hypothetical, a videotape that might be in  
25 VHS format. If that became obsolete in 20 years, you could

1 transfer that into a different format, if it was appropriate  
2 for that medium. Which is not to say that you would  
3 necessarily get rid of the original.

4 CHAIRMAN TUNHEIM: I have a question relative to  
5 1400.7, subdivision (c), with respect to artifacts, and  
6 obviously recognizing that the statute itself requires broad  
7 public access to materials relative to the assassination.  
8 Do you believe that this provision will adequately assure  
9 public access to artifacts relating to the assassination?

10 MS. WALTER: I believe that it will. There are a  
11 variety of ways in which access can be provided and in the  
12 past the National Archives, especially recently, has  
13 instituted terms and conditions that both preserve the  
14 integrity of the artifacts but also allow, based on the  
15 particular research needs of the researcher, accessing  
16 various types of ways.

17 So this section I believe will in fact promote  
18 access as opposed to limiting it in the future.

19 CHAIRMAN TUNHEIM: Could you foresee any  
20 conditions under which the National Archives could totally  
21 deny access to artifacts under this provision?

22 MS. WALTER: Under this, no. I don't believe that  
23 that would be within the letter or spirit of the law.  
24 What's intended here is that the National Archives can use  
25 its professional judgment to ensure that these things are

1 preserved, and I think it would be contrary to the spirit of  
2 what Congress intended that access would ever be totally  
3 denied.

4 CHAIRMAN TUNHEIM: Other questions? Go ahead.

5 MR. HALL: Ms. Walter, we're going to have a  
6 supplementary statement that goes along with this  
7 definition, and under 1400.1, dealing with the scope of  
8 assassination record, there is provided in that  
9 supplementary information a discussion not only about this  
10 change that may have led to one now reasonably related, but  
11 also a discussion of the relationship of the "reasonably  
12 related to" existing theories, particular theories of the  
13 assassination of President Kennedy.

14 Could you amplify a little for us the thinking  
15 that went into the writing of that particular paragraph?

16 MS. WALTER: That language is intended to indicate  
17 that, although particular theories related to the  
18 assassination are certainly things that inform the Board's  
19 work, that the Board's primary purpose as created by  
20 Congress and is explicit both in terms of the statute and  
21 the legislative history, is to identify and release records,  
22 not to investigate the assassination.

23 So the "reasonably related to" language is  
24 intended to make it clear that it's in the search for and  
25 the release of records, not in the search for and release of

1 information related to any particular theories. So of  
2 course those theories will inform the Board's work, that is  
3 the main focus of the Board's tenure.

4 MR. HALL: Thank you.

5 CHAIRMAN TUNHEIM: Before we go forward, I think  
6 we're not going to take any additional public testimony  
7 today. We have held two public hearings on the draft  
8 regulation and have also had the comment period, and we have  
9 a significant number of responses to that request,  
10 significant number of written responses and testimony at our  
11 previous hearings.

12 I just want to indicate that I appreciate  
13 certainly all of you in the audience today who have  
14 participated in this effort. We really have drawn upon your  
15 comments and your suggestions extensively, as you can see by  
16 the new draft that we're now considering today, and I just  
17 want to express my thanks for your help in fashioning a  
18 workable set of guidance for what an assassination record  
19 is.

20 I think we'll go ahead and move the adoption and  
21 then have Board discussion on the draft. I want to point  
22 out that Board member Henry Graff could not be in attendance  
23 today because of a conflict, and he has indicated, and let  
24 me just read this into the record. This is a letter dated  
25 May 1, 1995, to John R. Tunheim, Chairman, Assassination

1 Records Review Board, from Henry F. Graff. "I herewith give  
2 you my proxy to vote in favor of final interpretive  
3 regulations (as contained in the draft of 26 April 1995),"  
4 which is the draft that Mr. Graff reviewed, "for the  
5 implementation of the Kennedy Assassination Records  
6 Collection Act of 1992. I take into account that as a  
7 result of the Board's discussions, minor changes may yet be  
8 made in the draft." That's in the record.

9 MS. WALTER: Mr. Chairman, could I just add also  
10 that the April 26 draft is identical to the May 3rd  
11 discussion draft.

12 CHAIRMAN TUNHEIM: Thank you for clarifying that.  
13 Is there a motion to approve?

14 MS. WALTER: Yes, Mr. Chairman. I move that the  
15 interpretive regulations as contained in the discussion,  
16 today in the discussion draft today, be adopted by the  
17 Review Board, as final interpretive regulations for the  
18 guidance and in order to implement the Assassination Records  
19 Collection Act of 1992.

20 CHAIRMAN TUNHEIM: Is there a second to the motion  
21 to approve the final interpretive regulation?

22 MS. NELSON: Yes.

23 MR. JOYCE: Seconded.

24 CHAIRMAN TUNHEIM: Moved and seconded. The floor  
25 is now open for discussion on the part of Board members.

1 Any discussion? Let's move to a vote on the motion that's  
2 on the floor, recognizing that Mr. Graff has indicated his  
3 proxy.

4 All those in favor of the motion to approve the  
5 final draft interpretive regulations, please say aye.

6 [Chorus of ayes.]

7 CHAIRMAN TUNHEIM: Opposed.

8 [No response.]

9 CHAIRMAN TUNHEIM: It's carried by a five to zero  
10 vote.

11 Thank you, Ms. Walter, for all of your assistance.

12 We are going to move now to what has been a  
13 regular feature of our public meetings, and that is a brief  
14 update on changes that have occurred since we last met to  
15 the collection at the National Archives. Steve Tilley is  
16 not with us today. He typically makes that report. Mary  
17 Ronan from the National Archives is here and we would  
18 welcome her forward to give us a report on the status of the  
19 collection. Welcome, Mary.

20 MS. RONAN: Thank you, Mr. Chairman, Board  
21 members. I appreciate the opportunity to read this to you,  
22 and apologize for Mr. Tilley who was, like Mr. Graff,  
23 unavoidably detained some place else.

24 I'm reading to you the statement of Steve Tilley.

25 Thank you for the opportunity to update the Board

1 on the status of the JFK collection. I apologize for being  
2 unable to appear before the Board in person.

3 At the Board's last public hearing in Washington  
4 on March 7th, I discussed the pending transfer of additional  
5 records by the FBI. These records were investigative files  
6 regarding organized crime figure Sam Giancana and Gus Alex,  
7 and assassination-related documentations from the SOLO  
8 operation, the investigation that focused on activities of  
9 the Community Party of the United States. The records were  
10 released to the public on March 30th and this release  
11 received a great deal of media attention.

12 At the last hearing I told you that we had added  
13 the first data disks received from the CIA to our master  
14 system but had not completed the work necessary to transfer  
15 the data to the reference system. I am now able to report  
16 that this data is in the reference system and fully  
17 searchable as of today.

18 As I mentioned on March 7, these data disks  
19 contain information on the portion of the Lee Harvey Oswald  
20 201 Personality File that was transferred to NARA in August  
21 1993 for the opening of the Collection. We have also added  
22 data disks received from the House permanent subcommittee on  
23 intelligence for the records of the Pike Committee and data  
24 disks for the Navy's Bureau of Medicine and Surgery. The  
25 addition of this information to the database has raised the

1 number of record identification forms in the database to  
2 just over 117,000. We have also updated the printed subject  
3 listing for the database. It is available in the research  
4 room at Archives 2 in College Park.

5 On March 7 I told the Board that the CIA had  
6 transferred notes taken by members of the HSCA staff as  
7 those individuals reviewed CIA records during the course of  
8 the HSCA's investigation. The CIA has reviewed these  
9 documents and provided NARA with recommendations on  
10 postponing information contained in these documents.

11 I would like to remind the Board that the ultimate  
12 authority for disclosure of these documents lies with NARA  
13 acting as the agent of the House of Representatives. We are  
14 also responsible for entering the data from these records in  
15 the database.

16 I must inform the Board that we have not yet begun  
17 the data entry on these documents. After discussion with  
18 the staff of our Center for Legislative Archives, it was  
19 determined that the staff of the Center would first complete  
20 the processing of other pending records before beginning the  
21 review of the staff notes.

22 The current status of these issues is as follows.  
23 First, non-federal police department records have been  
24 referred to the departments for review. The referrals were  
25 sent by registered mail and signed receipts were received

1 for each letter sent, so we know the packages were received  
2 by the addressees.

3 So far we have received one reply from the Ft.  
4 Lauderdale, Florida Police Department, which recommended  
5 that one lengthy report be released in full. They referred  
6 several other documents to the Dade County Police Department  
7 for further review.

8 Second, I wrote to the California State Archives  
9 concerning the autopsy records, including state grand jury  
10 records relating to Robert F. Kennedy. I have not received  
11 a reply to my letter.

12 Third, we have completed the review of most of the  
13 more than 600 tape recordings among the records of the HSCA.  
14 Last week a set of 33 additional tape recordings was  
15 transferred to our Motion Picture, Sound, and Video Branch  
16 for researcher use. Other tape recordings have been  
17 referred to the CIA for review and we have not yet received  
18 a reply from the CIA on these tapes.

19 We have identified approximately 75 tape  
20 recordings that may need review by other agencies. The CIA  
21 has agreed to send staff to the downtown building to conduct  
22 an initial review there. Once the CIA review is completed,  
23 we will contact other agencies as necessary or provide  
24 reference copies for researcher use if no further review is  
25 required.

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1           We have approximately 15 tape recordings which  
2 still require some preservation work before we can begin  
3 reviewing for release. When the preservation work is  
4 completed, we will begin the normal review process.

5           Finally, we are prepared to begin the review of a  
6 small set of documents, approximately a box and a half of  
7 records, that were set aside during the initial review of  
8 the HSCA records. Many of these documents present difficult  
9 disclosure decisions that relate to questions of personal  
10 privacy, including medical information, information  
11 concerning the involvement of David Ferrie with named  
12 juveniles, and interviews with witnesses that may be subject  
13 to explicit confidentiality agreements.

14           There are also copies of tax returns of members of  
15 the Ruby family. While the statute excludes tax return  
16 information from the Collection, the Internal Revenue  
17 Service has indicated that these documents may be subject to  
18 disclosure if the copies among the records of the HSCA  
19 differ in some manner from the official copies among the  
20 records of the IRS.

21           A meeting with a representative of the IRS will  
22 take place soon. Once the review of these documents are  
23 completed, we will begin the review and data entry of the  
24 HSCA staff notes.

25           I am happy to report some progress on the

1 processing of the records of the Rockefeller Commission by  
2 the staff of the Ford Library. The staff of the Library  
3 told me last week that they have 147 documents, for a total  
4 of 738 pages, ready for referral to a number of agencies,  
5 including the FBI, the Department of Defense and State.  
6 These referrals will go out this week.

7 The Library has been in contact with the CIS since  
8 the visit of the review team last November and has sent  
9 copies of documents to the CIA for review. Once the  
10 referral to the other agencies is completed, the staff will  
11 begin copying the records of the commission opened by the  
12 CIA in November and add them to the collection.

13 Finally, the review of withheld FBI documents  
14 among the records of the Warren Commission and other  
15 agencies in our custody has slowed considerably. We hope  
16 this process can resume shortly to prevent the necessity of  
17 copying the remaining documents that require review. Let me  
18 point out again that these documents are copies of records  
19 which the FBI has already reviewed in its own files.

20 This completes my statement on the status of the  
21 Collection. I will be pleased to provide responses to any  
22 questions the Board may have at the earliest opportunity.

23 CHAIRMAN TUNHEIM: Any questions for Ms. Ronan  
24 while she's here with us?

25 MS. NELSON: I have one. You said that you're

1 going to have to move, what was it, tape recordings downtown  
2 to the CIA?

3 MS. RONAN: I believe the tape recordings are HSCA  
4 so they are at the moment downtown.

5 MS. NELSON: They are downtown. So that's why the  
6 CIA --

7 MS. RONAN: That's why the CIA will come down  
8 there.

9 MS. NELSON: So the way you sounded, they would go  
10 down there, originally up to College Park.

11 MS. RONAN: They have been up to College Park.

12 CHAIRMAN TUNHEIM: Do you know, Mary, are those  
13 HSCA-originated recordings, or are they originated by the  
14 CIA?

15 MS. RONAN: I believe they are HSCA-originated  
16 recordings.

17 MR. JOYCE: I gather after the review is completed  
18 that that material will be in fact integrated in College  
19 Park?

20 MS. RONAN: Yes, it will be.

21 MR. MARWELL: I was a little confused about the  
22 tax returns issue, the Ruby family. Are those tax returns  
23 that were gotten originally from the IRS, or were they  
24 obtained from the estate or from the family? Do you know?

25 MS. RONAN: I don't know.

1           CHAIRMAN TUNHEIM: I believe they were obtained by  
2 the family. They volunteered them.

3           MR. MARWELL: And that's why the IRS is taking the  
4 position that it's taking, then?

5           MS. RONAN: I think that's part of it.

6           CHAIRMAN TUNHEIM: Any other questions?

7           Thank you, Mary. Thank you for your help as well  
8 as Steve's as you've gone through this process and continued  
9 to.

10           I want to point out that the interpretive  
11 regulation that we approve today is not yet ready for  
12 publication in the Federal Register. It needs to be  
13 reviewed by the Office of Management and Budget and that has  
14 to take place before final publication.

15           I am hopeful that the guidance provided in that  
16 regulation will be helpful to agencies, will be helpful to  
17 the public in understanding the type of information that  
18 this Board feels is important for us to look for, to gather  
19 and collect as part of the overall collection at the  
20 National Archives. I think it will be, and I hope the  
21 public finds it very useable and helpful as well.

22           I have just a couple of announcements before we  
23 close and then I'll ask whether Board members or Mr. Marwell  
24 have anything in addition to add. Since our last public  
25 meeting in Washington, we had an excellent public meeting

1 and hearing in Boston in March, and we also had a very  
2 fruitful and I think helpful day at the JFK Presidential  
3 Library talking with library officials about the records  
4 that are there.

5 The Board is currently planning on a public  
6 hearing and meeting in New Orleans. We're looking at  
7 possibly the day of June 28th for that hearing. We haven't  
8 finalized that yet but it will be in that time frame, a  
9 hearing very similar to the one that we conducted in Boston,  
10 again with a focus on a search for relevant records that may  
11 be present in the New Orleans area.

12 The staff is working on finalizing the process by  
13 which the Board will begin its review of records, and we  
14 hope that that process will be ready soon and the Board can  
15 begin implementing that and reviewing the records that are  
16 awaiting our attention.

17 Mr. Marwell, do you have anything to report today?

18 MR. MARWELL: I'd just like to note that the staff  
19 has grown to almost full strength. There's a couple of  
20 positions that have yet to be filled. I believe seven or  
21 eight of our employees currently have received their  
22 necessary security clearances and are out in the field doing  
23 the review of documents so that we are actually under way in  
24 the main phase of our operation. I think by another six  
25 weeks we should have the full complement of analysts cleared

1 and out in the field.

2 CHAIRMAN TUNHEIM: Board members, anything you  
3 wish to add today? Is there any other business to come  
4 before the Review Board today?

5 If not, is there a motion to adjourn?

6 MR. JOYCE: I move the adjournment of this  
7 meeting.

8 CHAIRMAN TUNHEIM: Is there a second to the  
9 motion?

10 MS. NELSON; Yes.

11 CHAIRMAN TUNHEIM: All those in favor of  
12 adjournment, please say aye.

13 [Chorus of ayes.]

14 CHAIRMAN TUNHEIM: The meeting is adjourned.  
15 Thank you.

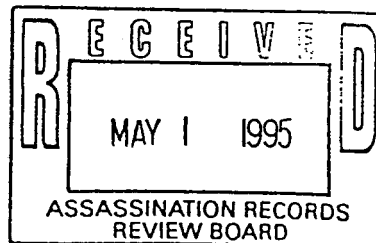
16 [Whereupon, at 1:53 p.m. the above-entitled matter  
17 was concluded.]

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Henry F. Graff

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May 1, 1995

To: John R. Tunheim, Esq.  
Chairman, Assassination Records Review Board  
From: Henry F. Graff

I herewith give you my proxy to vote in favor of the Final Interpretive Regulations (as contained in the draft of 26 April 1995) for the implementation of the Kennedy Assassination Records Collection Act of 1992? I take into account that as a result of the Board's discussions, minor changes may yet be made in the draft.

cc: Sheryl L. Walter, General Counsel, ARRB

Copy #1  
T-2

STATEMENT OF STEVEN D. TILLEY  
FOR THE MEETING OF THE ASSASSINATION RECORDS REVIEW BOARD  
MAY 3, 1995

Thank you for the opportunity to update the Board on the status of the JFK Collection. I apologize for being unable to appear before the Board in person.

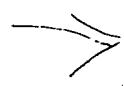
At the Board's last public hearing in Washington on March 7, I discussed the pending transfer of additional records by the FBI. These records consisted of investigative files regarding organized crime figures Sam Giancana and Gus Alex, and assassination-related documents from the SOLO operation, an investigation that focused on the activities of the Communist Party, USA. The records were released to the public on March 30, and this release received a great deal of media attention.

At the last hearing, I indicated that we had added the first data disks received from the CIA to our Master system but had not completed the work necessary to transfer the data to the reference system. I am now able to report that this data is ~~now~~ in the reference system and fully searchable <sup>as of today</sup>. As I mentioned on March 7, these data disks contain information on the portion of the Lee Harvey Oswald 201 Personality File that was transferred

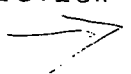
to NARA in August 1993 for the opening of the Collection. We have also added data disks received from the House Permanent Subcommittee on Intelligence for the records of the Pike Committee and data disks for the records of the Navy's Bureau of Medicine and Surgery. The addition of this information to the database has raised the number of record identification forms in the database to just over 117,000. We have also updated the <sup>printed</sup> subject listing for the database. (1)

On March 7, I informed the Board that the CIA had transferred notes taken by members of the HSCA staff as those individuals reviewed CIA records during the course of the HSCA's investigation. The CIA has reviewed these documents and provided NARA with recommendations on postponement of information contained in these documents. I would like to remind the Board that the ultimate authority for disclosure of these documents lies with NARA, acting as the agent of the House of Representatives. We are also responsible for <sup>evaluating</sup> performing the data entry <sup>from</sup> on these records to ~~include these documents~~ in the database.

I must inform the Board that we have not begun the data entry on these documents. After discussion with the staff of our Center for Legislative Archives, it was determined that the staff of the Center that works with the HSCA records would first complete the processing of other pending records before beginning the review of the staff notes. The current status of these



issues is as follows: first, non-federal police department records have been referred to the departments for review. The referrals were sent by registered mail, and signed receipts were received for each letter sent, so we know the packages were received by the addressees. So far, we have received one reply from the Ft. Lauderdale, FL Police Department which recommended that one lengthy report be released in full. They referred several other documents to the Dade County, ~~FL~~ Police Department for further review. <sup>P</sup> Secondly, I wrote to the California State Archives concerning the autopsy records, including state grand jury records, relating to Robert F. Kennedy. I have not received a reply to my letter. Thirdly, we have completed the review of most of the more than 600 tape recordings among the records of the HSCA. Last week, a set of 33 additional tape recordings was transferred to our Motion Picture, Sound, and Video Branch for research use. <sup>Other</sup> ~~Some~~ tape recordings have already been referred to the CIA for review, and we have not received a reply from the CIA at this time. <sup>P</sup> We have identified another approximately 75 tape recordings that may need review by other agencies. The CIA has agreed to send staff to the downtown building to conduct an initial review there. Once the CIA review is completed, we will contact other agencies as necessary or provide reference copies for research <sup>cr. us.</sup> if no further review is required. We have approximately 15 tape recordings which still require some preservation work before we can begin reviewing for release. When the preservation work is completed, we will begin the normal review process. <sup>P</sup> Finally, we are prepared to begin the review of



a small set of documents, approximately a box and a half of records, that were set aside during the initial review of the HSCA records. Many of these documents present difficult disclosure decisions that relate to questions of personal privacy, including medical information, information concerning the involvement of David Ferrie with named juveniles, and interviews with witnesses that may be subject to explicit confidentiality agreements.<sup>IP</sup> There are also copies of tax returns of members of the Ruby family. While the statute excludes tax return information from the Collection, the Internal Revenue Service has indicated that these documents may be subject to disclosure if the copies among the records of the HSCA differ in some manner from the official copies among the records of the IRS. A meeting with a representative of the IRS should take place soon. Once the review of these documents is completed, we will begin the review and data entry of the HSCA staff notes.

I am happy to report some progress on the processing of the records of the Rockefeller Commission by the staff of the Ford Library. The staff of the Library <sup>told</sup> informed me last week that they have 147 documents, <sup>for a of</sup> totalling 738 pages, ready for referral to a number of agencies, including FBI, DOD and State. These referrals should go out this week.<sup>IP</sup> The Library has been in contact with the CIA since the visit of the review team last November and has sent copies of documents to the CIA for review. Once the referral to the other agencies is completed, the staff will begin copying the records of the Commission opened by the



*and all them to*  
CIA in November for ~~inclusion in~~ the Collection.

Finally, the review of withheld FBI documents among the records of the Warren Commission and other agencies in our custody has slowed considerably. We hope this process can resume shortly to prevent the necessity of copying the remaining documents that require review. Let me point out again that these documents are copies of records which the FBI has already reviewed in its own files.

This completes my statement on the status of the Collection. I will be pleased to provide responses to any questions the Board may have at the earliest opportunity.

*End*